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## **OLR Bill Analysis**

### **SB 320**

#### ***AN ACT PROHIBITING PRICE GOUGING DURING SEVERE WEATHER EVENTS.***

##### **SUMMARY:**

This bill extends the bar on excessive price increases to goods and services sold during any severe weather event emergency that the governor proclaims (weather emergency). By law, price gouging is barred for (1) products under a civil preparedness emergency declaration, (2) products and services under a supply emergency declaration, and (3) energy resources during abnormal market disruptions.

Under the bill, no seller can sell or offer to sell any goods or services for an “unconscionably excessive price” during a weather emergency. The bill exempts energy resource (e.g., gasoline) sellers, who are covered under a separate price gouging law. Whether a price is unconscionably excessive is based on several factors, which a defendant may rebut.

A seller who violates the bill commits an unfair trade or deceptive practice (CUTPA) and each day on which the violation occurs or continues is a separate offense. However, the bill does not limit the Department of Consumer Protection (DCP) commissioner’s or a court’s authority to find the covered actions CUTPA violations in the absence of a governor’s proclamation.

EFFECTIVE DATE: Upon passage

##### **SEVERE WEATHER EVENT**

Under the bill, the governor may proclaim a severe weather event emergency exists when adverse weather conditions create an unusually high demand for consumer goods or services. He must post a notice of the proclamation and its beginning and ending date on his

office website.

## **PRICE GOUGING**

During a weather emergency, no seller can sell or offer to sell for an unconscionably excessive price, goods and services vital and necessary for consumer health, safety, or welfare and used, bought, or rendered primarily for personal, family, or household purposes. Goods and services include lodging, snow removal, flood abatement, and post-storm cleanup or repair services.

To determine if a price is unconscionably excessive, the DCP commissioner or court must consider: (1) whether the price was unconscionably excessive, (2) whether unfair leverage or unconscionable means were used, or (3) a combination of these factors. Prima facie evidence of unconscionable pricing exists when (1) there is a gross disparity between the price of the goods or services during the weather emergency and their average price 30 days before the emergency began or (2) evidence that the sale price for the goods and services grossly exceeded the sale price to consumers in the trade area.

A defendant may challenge or rebut prima facie evidence by showing that (1) he or she incurred additional costs to acquire the goods or services and (2) the additional costs were out of his or her control.

## **BACKGROUND**

### ***Price Gouging Law***

The law prohibits anyone from increasing the retail price of any goods, but not services, when the governor issues a disaster or transportation emergency declaration or the president issues any major disaster or emergency declaration (CGS § 42-230).

### ***Supply Emergency***

In the event of a state-wide, regional, or threatened shortage of a product or service because of an abnormal market disruption, the governor may proclaim a supply emergency exists. He may then designate a product or service to be in short supply and impose price

restrictions or ration them (CGS § 42-231).

Under a supply emergency, no one can sell or offer to sell a product or service at a price higher than it was sold or offered in the course of business just before the declaration (CGS § 42-232).

***Connecticut Unfair Trade Practices Act (CUTPA)***

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for a willful violation and \$25,000 for violation of a restraining order.

**COMMITTEE ACTION**

General Law Committee

Joint Favorable

Yea 18      Nay 0      (03/12/2013)